IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6254 of 2007()

CRIME NO.767/2007 OF VATAKARA POLICE STATION

PETITIONER

PARACHAL MEETHAL ASHOKAN,
S/O LATE CHATHU, KOTTAPPALLI,
PAINGOTTAYI DESOM, P.O.KOTTAPPALLI,
KOZHIKODE.

BY ADV. SRI.P.NARAYANAN

RESPONDENTS:

STATION HOUSE OFFICER,
VATAKARA POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6254 of 2007

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Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Section 392 IPC. The crux of the allegations against the petitioner is that at about 5.30 p.m.on 30.9.07, he attempted to snatch the gold chain worn by the de facto complainant. He was not successful in doing the same. The chain had broken but the petitioner could not allegedly take the chain. Hearing the cries of the victim, some persons assembled and then the petitioner allegedly ran away. The victim, who attempted to run away fell down and suffered injuries. She was taken to the hospital immediately after the occurrence. Later on, at the hospital her F.I statement has been recorded. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that anticipatory bail may be granted to the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that available indications

satisfactorily point to the culpability of the petitioner. There is absolutely no circumstances in this case justifying invocation of the extraordinary equitable discretion under Section 438, submits learned Public Prosecutor.

4. The learned Public Prosecutor has taken me through the relevant portions of the case diary. Statements of the eye witnesses have been read over to me. The learned counsel for the petitioner submits that the petitioner and the de facto complainant are related to each other and there is strain in their relationship. Totally false and vexatious allegations are being raised against him because of such strain in the relationship.

5. At this early stage of investigation, I shall not embark on the acceptability of the allegations raised and the credibility of the data collected. Suffice it to say that I find merit in the opposition by the learned Public Prosecutor. There are no features in this case suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate and seek bail in the ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE